

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JEROME TALLEY,

Plaintiff,

v.

KAREN L. STROMBOM, *et al.*,

Defendants.

Case No. C15-5775-MJP-MAT

REPORT AND RECOMMENDATION

On October 20, 2015, plaintiff Jerome Talley submitted to the Court for filing a civil rights complaint pursuant to *Bivens v. Six Unknown Federal Narcotics Agents*, 403 U.S. 388 (1971). (*See* Dkt. 1.) Plaintiff was at that time a pretrial detainee confined in the Kitsap County Jail. Plaintiff asserted in his complaint that the named defendants had violated his federal constitutional rights to due process and equal protection. (*See id.* at 3.) Plaintiff also asserted claims of libel, slander, and defamation. (*See id.*) Plaintiff did not submit with his complaint either the requisite filing fee or an application to proceed with this action *in forma pauperis*.

After reviewing plaintiff's proposed complaint, this Court concluded that plaintiff was ineligible to file the instant lawsuit without first paying the full filing fee because of constraints imposed on prisoner filings by 28 U.S.C. § 1915(g). Accordingly, on November 25, 2015, this

REPORT AND RECOMMENDATION - 1

1 Court issued a Report and Recommendation in which it recommended that plaintiff be directed
2 to pay the filing fee within 30 days of the date on which the Report and Recommendation was
3 adopted, and that the action be dismissed without prejudice if plaintiff failed to do so. (Dkt. 5.)
4 A copy of the Report and Recommendation was sent to plaintiff at his address of record, the
5 Kitsap County Jail in Port Orchard, Washington. (*See id.*)

6 On December 8, 2015, the copy of the Report and Recommendation directed to plaintiff
7 at the Kitsap County Jail was returned to the Court with a notation indicating that the mail was
8 not deliverable because plaintiff had been released. (*See* Dkt. 8.) Subsequent Orders mailed to
9 plaintiff at the Kitsap County Jail were also returned. (*See* Dkts. 11 and 13.) To date, plaintiff
10 has not provided the Court with an updated address.

11 Because over sixty days have passed since mail directed to plaintiff at his address of
12 record was first returned by the post office, and because plaintiff has not notified the Court of his
13 current address, this action should be dismissed, without prejudice, for failure to prosecute
14 pursuant to LCR 41(b)(2). Plaintiff's pending motion for relief from a prior order of recusal
15 should be stricken as moot. A proposed order accompanies this Report and Recommendation.

16 DEADLINE FOR OBJECTIONS

17 Objections to this Report and Recommendation, if any, should be filed with the Clerk and
18 served upon all parties to this suit within **twenty-one (21) days** of the date on which this Report
19 and Recommendation is signed. Failure to file objections within the specified time may affect
20 your right to appeal. Objections should be noted for consideration on the District Judge's
21 motions calendar for the third Friday after they are filed. Responses to objections may be filed

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1 within **fourteen (14) days** after service of objections. If no timely objections are filed, the
2 matter will be ready for consideration by the District Judge on **March 4, 2016**.

3 DATED this 11th day of February, 2016.

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5 Mary Alice Theiler
6 United States Magistrate Judge